



DT05 Rec'd PCT/PTO 04 SEP 2002

TRANSMITTAL LETTER			Case No. 5404/18
Serial No. 10/049,710	Filing Date February 15, 2002	Examiner Not Assigned	Group Art Unit Not Assigned
Inventor(s) Atsuhiko Shinmyo et al.			
Title of Invention METHOD OF INDUCING GENE EXPRESSION IN PLANT AND PLANT TREATED THEREBY			

## TO THE COMMISSIONER FOR PATENTS

Transmitted herewith is Transmittal Letter (in Duplicate); Response to Notification of Defective Response and Request for Reconsideration or/in the Alternative Petition Under 35 C.F.R. § 1.182; Statement According to 37 C.F.R. § 1.821(f); a Substitute Computer Readable Form (Disk) of the Required Sequence Listing; a Print-Out of the Required Sequence Listing; a copy of the Declaration; and Return Postcard.

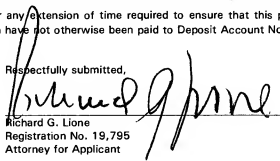
- ☐ Small entity status of this application under 37 CFR § 1.27 has been established by verified statement previously submitted.
- ☐ A verified statement to establish small entity status under 37 CFR §§ 1.9 and 1.27 is enclosed.
- ☐ Petition for a \_\_\_\_\_ month extension of time.
- ☒ No additional fee is required.
- ☐ The fee has been calculated as shown below:

	Claims Remaining After Amendment	Highest No. Previously Paid For	Present Extra
Total	Minus		
Indep.	Minus		
First Presentation of Multiple Dep. Claim			

Small Entity		or	Other Than Small Entity	
Rate	Add'l Fee		Rate	Add'l Fee
x \$9 =			x \$18 =	
x 42 =			x \$84 =	
+ \$140 =			+ \$280 =	
Total add'l fee	\$		Total add'l fee	\$

- ☒ Please charge Deposit Account No. 23-1925 (BRINKS HOFER GILSON & LIONE) in the amount of \$130.00. A duplicate copy of this sheet is enclosed.
- ☐ A check in the amount of \$ \_\_\_\_\_ to cover the filing fee is enclosed.
- ☒ The Commissioner is hereby authorized to charge payment of any additional filing fees required under 37 CFR § 1.16 and any patent application processing fees under 37 CFR § 1.17 associated with this communication or credit any overpayment to Deposit Account No. 23-1925. A duplicate copy of this sheet is enclosed.
- ☒ I hereby petition under 37 CFR § 1.136(a) for any extension of time required to ensure that this paper is timely filed. Please charge any associated fees which have not otherwise been paid to Deposit Account No. 23-1925. A duplicate copy of this sheet is enclosed.

Respectfully submitted,



Richard G. Lione  
Registration No. 19,795  
Attorney for Applicant

BRINKS HOFER GILSON & LIONE  
P.O. BOX 10395  
CHICAGO, ILLINOIS 60610  
(312) 321-4200

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231, on August 30, 2002.

Date: Aug 30, 2002 Signature: 

rev. Dec.-00



I hereby certify that this correspondence is being deposited with the United States Postal Service, with sufficient postage, as first class mail in an envelope addressed to The Commissioner for Patents, Washington, D.C. 20231 on AUGUST 30, 2002

Richard G. Lione

Name of Applicant(s) Representative

Signature

Case No. 5404/18

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:  Atsuhiko Shinmyo et al.  Serial No.: 10/049,710  Filed: February 15, 2002  For: METHOD OF INDUCING GENE EXPRESSION IN PLANT AND PLANT TREATED THEREBY	Attention: Manager, Application Branch
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**RESPONSE TO NOTIFICATION OF  
DEFECTIVE RESPONSE AND REQUEST  
FOR RECONSIDERATION OR/IN THE  
ALTERNATIVE PETITION UNDER 35 C.F.R. § 1.182**

**BOX SEQUENCE LISTING**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

In response to the Notification of Defective Response, dated August 8, 2002, applicants hereby submit:

1. a substitute computer readable form (disk) of the required sequence listing; and
2. a print-out of the required sequence listing.

In addition, applicants request reconsideration of the requirement for a new Declaration.

Applicants submit that the Declaration filed on June 17, 2002, is in compliance with 37 C.F.R.

§ 1.497(a) and (b) and identifies the application by the international application number and the international filing date. A copy of that Declaration is enclosed for ease of reference.

The Declaration filed June 17, 2002, "identifies the application to which it is directed". That international application has U.S. Serial No. 10/049,710 as well as International Application Serial No. PCT/JP01/05096. Both those serial numbers are listed on the Declaration. All of the actual inventors have signed. As such the Declaration complies with 37 C.F.R. § 1.497(a) and 1.497(b) because the "international application" to which the Declaration "is directed" is plainly identified therein.

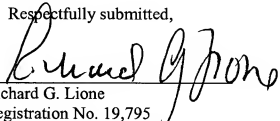
Neither 37 C.F.R. § 1.497(a) nor § 1.497(b) requires that the international application be identified in a specific way, e.g., under the invention title. Thus, applicants submit that they have complied with the Code requirements and request that the requirement for a new Declaration be withdrawn and the Declarations previously submitted be accepted.

In the event the requirement is not withdrawn by the application branch, applicants hereby petition the Commissioner under 37 C.F.R. § 1.182 to withdraw the requirement. The Commissioner is authorized to charge \$130.00 to Deposit Account No. 23-1925.

Dated:

August 30, 2002

Respectfully submitted,

  
Richard G. Lione  
Registration No. 19,795  
Applicant(s) Representative

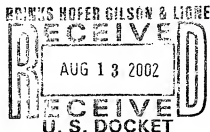
BRINKS HOFER GILSON & LIONE  
P.O. BOX 10395  
CHICAGO, IL 60610  
(312) 321-4893



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents, Box PCT  
United States Patent and Trademark Office  
Washington, D.C. 20231  
www.uspto.gov

U.S. APPLICATION NUMBER NO 10/049,710	FIRST NAMED APPLICANT Atsuhiko Shinmyo	ATTY. DOCKET NO. 5404-18
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Brinks Hofer Gilson & Lione  
PO Box 10395  
Chicago, IL 60610

INTERNATIONAL APPLICATION NO PCT/JP01/05096	
LA. FILING DATE 06/15/2001	PRIORITY DATE 06/15/2000

CONFIRMATION NO. 4595  
371 FORMALITIES LETTER

\*00000000006584369\*

Date Mailed: 08/08/2002

## NOTIFICATION OF DEFECTIVE RESPONSE

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated Office (37 CFR 1.494):

- U.S. Basic National Fee
- Priority Document
- Assignee Statement
- Biochemical Sequence Diskette
- Biochemical Sequence Listing
- Copy of references cited in ISR
- Copy of the International Application
- Copy of the International Search Report
- Information Disclosure Statements
- Preliminary Amendments
- Request for Immediate Examination

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.

Applicant is required to complete the response within a time limit of ONE MONTH from the date of this Notification or within the time remaining in the response set forth in the Notification of Missing Requirements, whichever is the longer. No extension of this time limit may be granted under 37 CFR 1.136, but the period for response set in the Notification of Missing Requirements may be extended under 37 CFR 1.136(a).

The following items **MUST** be furnished within the period set forth below:

- The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 CFR 1.821-1.825 for the following reason(s):

- The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A substitute computer readable form must be submitted as required by 37 CFR 1.825(d).
  - **APPLICANT MUST PROVIDE:**
    - An initial or substitute computer readable form (CRF) of the "Sequence Listing."
- For questions regarding compliance to 37 CFR 1.821-1.825 requirements, please contact:
- For Rules Interpretation, call (703) 308-4216
  - To Purchase PatentIn Software, call (703) 306-2600
  - For PatentIn Software Program Help, call (703) 306-4119 or e-mail at [patin21help@uspto.gov](mailto:patin21help@uspto.gov) or [patin3help@uspto.gov](mailto:patin3help@uspto.gov)
- The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A substitute computer readable form must be submitted as required by 37 CFR 1.825(d).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

*A copy of this notice **MUST** be returned with the response.*

DEBORAH D WILLIAMS

Telephone: (703) 305-3744

**PART 1 - ATTORNEY/APPLICANT COPY**

U.S. APPLICATION NUMBER NO	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/049,710	PCT/JP01/05096	5404-18

FORM PCT/DO/EO/916 (371 Formalities Notice)